IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

Bail Appl..No. 7706 of 2007()
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CRIME NO.687/07 OF FORT POLICE STATION.

PETITIONER/A4
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SUJITH KRISHNA, AGED 32,
S/O.THULASIDHARAN, G.K.GARDENS, NO.16,
VALLAKADAVU.

BY ADV. SRI.SASTHAMANGALAM S. AJITHKUMAR
SRI.SHAJIN S.HAMEED

RESPONDENTS:
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THE S.I. OF POLICE, FORT POLICE STATION,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

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B.A.No. 7706 of 2007

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Dated this the 14th day of December, 2007

**O R D E R**

Application for anticipatory bail. The petitioner is the 4th accused. Altogether there are 8 accused in the crime. All of them are named in the F.I.R. They face allegations punishable, inter alia, under Section 27 of the Arms Act and Section 324 r/w. 149 I.P.C. Investigation is in progress. Accused 6 and 8 have already been arrested. The petitioner apprehends imminent arrest.

2. The crux of the allegations against the accused is that they, on account of animosity which the 4th accused entertained towards the defacto complainant, were members of an unlawful assembly which proceeded to the place where the defacto complainant was and unleashed an attack on him. Injuries were suffered by him and his brother. Injuries by themselves are not serious. The prosecution alleges that the accused were in

possession of dangerous weapons offending the provisions of the Arms Act.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. No specific overt act is alleged against the petitioner. No serious injury has resulted also. In these circumstances the petitioner does not deserve to endure the trauma of arrest and detention, submits the counsel.

3. The learned Prosecutor opposes the application. He submits that the crime alleged is serious and grave. On account of prior animosity, the accused persons armed with dangerous weapons had constituted themselves into an unlawful assembly and attacked the victim. The petitioners may not be granted anticipatory bail now, submits the learned Prosecutor.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Prosecutor. There are no features in this case, which justify or warrant the invocation of the extra ordinary equitable discretion under section 438 Cr.P.C. in favour of the petitioner. This I am satisfied is a fit case where the petitioner must

resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

**(R. BASANT)**
Judge

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